



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2013 REGULAR SESSION

SENATE BILL NO. 152

AS ENACTED

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

1 AN ACT relating to the insurance code.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔Section 1. KRS 304.9-020 is amended to read as follows:

4 As used in this subtitle:

5 (1) "Agent" means a person who sells, solicits, or negotiates insurance or annuity
6 contracts;

7 (2) "Appointment" means a notification filed with the insurance department that an
8 insurer has established an agency relationship with a producer;

9 (3) "Appointment renewal" means continuation of an insurer's existing appointment
10 based on payment of the required fee without submission of an appointment form;

11 (4) "Apprentice adjuster" means an individual who meets the qualification requirements
12 to hold a license as an independent, staff, or public adjuster, except for the
13 experience, education, and training requirements;

14 (5) "Business entity" means a corporation, association, partnership, limited liability
15 company, limited liability partnership, employer group, professional employer
16 organization, or other legal entity;

17 (6) "Catastrophe" means an event that results in a declaration of emergency by the
18 Governor pursuant to KRS 39A.100 and:

19 (a) A large number of deaths or injuries;

20 (b) Extensive damage or destruction of facilities that provide and sustain human
21 needs;

22 (c) An overwhelming demand on state and local response resources and
23 mechanisms;

24 (d) A severe long-term effect on general economic activity; or

25 (e) A severe effect on state, local, and private sector capabilities to begin and
26 sustain response activities;

27 (7) "Crop insurance" means insurance providing protection against damage to crops

1 from unfavorable weather conditions, fire or lightning, flood, hail, insect
 2 infestation, disease, or other yield-reducing conditions or perils provided by the
 3 private insurance market or that is subsidized by the Federal Crop Insurance
 4 Corporation, including multi-peril crop insurance;

5 (8) "Home state" means the District of Columbia and any state or territory of the United
 6 States in which a licensee maintains his or her principal place of residence or
 7 principal place of business and is licensed by that state;

8 (9) "Independent adjuster" means a person who:

9 (a) Is an independent contractor, an employee of an independent contractor, or for
 10 tax purposes is treated as an independent contractor under Subtitle C of the
 11 Internal Revenue Code, 26 U.S.C. secs. 3101 et seq.;

12 (b) Is compensated by an insurer or self-insurer; and

13 (c) Investigates, negotiates, or settles property, casualty, or workers'
 14 compensation claims for insurers or self-insurers;

15 (10) "Insurance producer" means an individual or business entity required to be licensed
 16 under the laws of Kentucky to sell, solicit, or negotiate insurance or annuity
 17 contracts. "Insurance producer" includes agent, managing general agent, surplus
 18 lines broker, reinsurance intermediary broker and manager, rental vehicle agent and
 19 rental vehicle agent managing employee, and consultant;

20 (11) "Limited line credit insurance" includes credit life, credit disability, credit property,
 21 credit unemployment, involuntary unemployment, mortgage life, mortgage
 22 guaranty, mortgage disability, guaranteed automobile protection insurance, and any
 23 other form of insurance offered in connection with an extension of credit that is
 24 limited to partially or wholly extinguishing that credit obligation that the
 25 commissioner determines should be designated a form of limited line credit
 26 insurance;

27 (12) "Limited line credit insurance agent" means an individual or business entity who

- 1 sells, solicits, or negotiates one (1) or more forms of limited line credit insurance
 2 coverage to individuals through a master, corporate, group, or individual policy;
- 3 (13) "Limited lines insurance" means the lines of insurance defined in subsections (7),
 4 (11), (21), (26), and (28) of this section and any other line of insurance that the
 5 commissioner identifies in accordance with KRS 304.9-230(1)(f) or recognizes for
 6 the purpose of complying with KRS 304.9-140(5);
- 7 (14) "Negotiate" means the act of conferring directly with, or offering advice directly to,
 8 a purchaser or prospective purchaser of a particular contract of insurance
 9 concerning any of the substantive benefits, terms, or conditions of the contract,
 10 provided that the person engaged in that act either sells insurance or obtains
 11 insurance from insurers for purchasers. "Negotiate" does not include negotiating a
 12 claims settlement;
- 13 (15) "Portable electronics" means electronic devices that are portable and the accessories
 14 and services related to the use of the device;
- 15 (16) (a) "Portable electronics insurance" means insurance providing coverage for the
 16 repair or replacement of portable electronics for any one (1) or more of the
 17 following:
- 18 1. Loss;
 - 19 2. Theft;
 - 20 3. Inoperability due to mechanical failure;
 - 21 4. Malfunction;
 - 22 5. Damage; or
 - 23 6. Other similar causes of loss.
- 24 (b) "Portable electronics insurance" does not mean:
- 25 1. A service contract governed by KRS 304.5-070;
 - 26 2. A policy of insurance covering a seller's or manufacturer's obligations
 27 under a warranty; or

1 3. A homeowner's, renter's, private passenger automobile, commercial
2 multi-peril, or similar policy;

3 (17) "Portable electronics insurance supervising entity" means a business entity that is a
4 licensed insurer or insurance agent that is appointed by an insurer to supervise the
5 administration of a portable electronics insurance program;

6 (18) "Portable electronics retailer" means a licensed business entity that offers and sells
7 portable electronic devices and offers and disseminates portable electronics
8 insurance on behalf and under the direction of a portable electronics insurance
9 supervising entity;

10 (19) "Public adjuster" means any person who, for compensation or anything of value:

11 (a) Acts on behalf of an insured or aids an insured, solely in relation to first-party
12 claims arising under insurance contracts that insure the real or personal
13 property of the insured, in negotiating for, or effecting the settlement of, a
14 claim for loss or damage covered by an insurance contract;

15 (b) Advertises for employment as a public adjuster of insurance claims, solicits
16 business or represents himself, herself, or itself to the public as a public
17 adjuster of first-party insurance claims for losses or damages arising out of
18 policies of insurance that insure real or personal property; or

19 (c) Directly or indirectly solicits business, investigates or adjusts losses, advises
20 an insured about first-party claims for losses or damages arising out of
21 policies of insurance that insure real or personal property for another person,
22 or engages in the business of adjusting losses or damages covered by an
23 insurance policy for the insured;

24 (20) "Rental vehicle agent" means a business entity with a rental vehicle agent managing
25 employee that is licensed to sell, solicit, or negotiate insurance offered, sold, or
26 solicited in connection with, and incidental to, the rental of rental vehicles~~[cars]~~,
27 whether at the rental office or by preselection of coverage in master, corporate, or

group agreements that:

- (a) Are nontransferable;
- (b) Apply only to the rental vehicle~~[car]~~ that is the subject of the rental agreement; and
- (c) Are limited to the following kinds of insurance:

- 1. Personal accident insurance for renters and other rental vehicle~~[car]~~ occupants for accidental death or dismemberment and for medical expenses resulting from an accident that occurs with the rental vehicle~~[car]~~ during the rental period;
- 2. Liability insurance that provides protection to the renters and other authorized drivers of a rental vehicle~~[car]~~ for liability arising from the operation or use of the rental vehicle~~[car]~~ during the rental period;
- 3. Personal effects insurance that provides coverage to renters and other vehicle occupants for loss of or damage to personal effects in the rental vehicle during the rental period;
- 4. Roadside assistance insurance;
- 5. Emergency sickness protection insurance; or
- 6. Any other coverage designated by the commissioner;

(21) "Rental vehicle insurance" means insurance underwritten by an insurer authorized to transact business in Kentucky that is sold in connection with, and incidental to, a rental vehicle agreement;

(22) "Rental vehicle agent managing employee" means an individual who:

- (a) Is a salaried full-time employee of a licensed rental vehicle agent business entity that holds a license under KRS 304.9-505; and
- (b) Is responsible for the supervision of the other employees engaged in the placement of insurance;

(23) "Sell" means to exchange a contract of insurance by any means, for money or other

1 valuable consideration, on behalf of an insurer;

2 (24) "Solicit" means attempting to sell insurance or asking or urging a person to apply
3 for a particular kind of insurance from a particular insurer;

4 (25) "Staff adjuster" means an individual who is an employee of an insurer who
5 investigates, negotiates, or settles property, casualty, or workers' compensation
6 claims on behalf of his or her employer;

7 (26) "Surety" means insurance or bond that covers obligation to pay the debts of, or
8 answer for the default of another, including faithlessness in a position of public or
9 private trust. Surety also includes surety insurance as defined in KRS 304.5-060;

10 (27) "Terminate" means the cancellation of the relationship between an insurance
11 producer and the insurer or the termination of an insurance producer's authority to
12 transact insurance;

13 (28) (a) "Travel insurance" means insurance coverage for personal risks incident to
14 planned travel, including but not limited to:

- 15 1. Interruption or cancellation of a trip or event;
- 16 2. Loss of baggage or personal effects;
- 17 3. Damages to accommodations or rental vehicles; and
- 18 4. Sickness, accident, disability, or death occurring during travel.

19 (b) "Travel insurance" does not include insurance coverage that provides
20 comprehensive medical protection for travelers with trips lasting six (6)
21 months or longer, including those working overseas as an expatriate or
22 military personnel being deployed;

23 (29) "Uniform business entity application" means the current version of the
24 uniform business entity application for resident and nonresident business entities;
25 and

26 (30) "Uniform individual application" means the current version of the uniform
27 individual application for resident and nonresident individuals.

1 ➔Section 2. KRS 304.9-425 is amended to read as follows:

2 (1) No insurer, financial institution, agent, surplus lines broker, adjuster, administrator,
3 reinsurance intermediary broker or manager, rental vehicle agent or managing
4 employee, life settlement broker or provider, or consultant shall pay, directly or
5 indirectly, any commission, brokerage, or other valuable consideration to any
6 individual or business entity for services as an agent, surplus lines broker, adjuster,
7 administrator, reinsurance intermediary broker or manager, rental vehicle agent or
8 managing employee, life settlement broker or provider, or consultant within this
9 state, unless the individual or business entity held at the time the services were
10 performed a valid license for that line of insurance as required by the laws of this
11 state for the services.

12 (2) No individual or business entity, other than an individual or business entity duly
13 licensed by this state as an agent, surplus lines broker, adjuster, administrator,
14 reinsurance intermediary broker or manager, rental vehicle agent or managing
15 employee, life settlement broker or provider, or consultant at the time the services
16 were performed, shall accept any commission, brokerage, or other valuable
17 consideration for those services, *unless the individual or business entity is licensed*
18 *at the time the services were performed, if a license is required by law.*

19 (3) This section shall not prevent payment or receipt of renewal or other deferred
20 commissions to or by any individual or business entity entitled under this section.

21 (4) Services as an agent, surplus lines broker, adjuster, administrator, reinsurance
22 intermediary broker or manager, rental vehicle agent or managing employee, or
23 consultant within this state shall not include a referral by an unlicensed person of a
24 consumer to a licensed agent, surplus lines broker, adjuster, administrator,
25 reinsurance intermediary broker or manager, rental vehicle agent or managing
26 employee, or consultant that does not include a discussion of specific insurance
27 policy terms and conditions.

1 (5) An insurer, financial institution, agent, surplus lines broker, adjuster, administrator,
2 reinsurance intermediary broker or manager, rental vehicle agent or managing
3 employee, or consultant may pay any compensation, fee, or other consideration to
4 an individual not licensed to sell insurance for the referral of a consumer to a
5 licensed individual, only if the consideration is paid regardless of whether the
6 insurance coverage is sold to the consumer.

7 ➔Section 3. KRS 304.12-100 is amended to read as follows:

8 Nothing in KRS 304.12-080, 304.12-090, or 304.12-110 shall be construed as
9 prohibiting:

10 (1) Payment of lawfully earned commission or other lawful compensation to duly
11 licensed insurance producers as defined in KRS 304.9-020(10) or compensation
12 disclosed in a written disclosure agreement as described in KRS 304.11-042;

13 (2) Distribution by a participating insurer to its participating policyholders of dividends,
14 savings, or the unused or unabsorbed portion of premiums and premium deposits;

15 (3) Furnishing of information, advice, programs, or services that are intended to reduce
16 the future cost of insurance of the policyholder or the probability or severity of loss
17 and assist in the efficient administration and management of the policyholder's
18 insurance program or to assist the client in complying with any state or federal law.
19 Such services shall include but are not limited to providing software to administer
20 an insured's employee benefits or risk management programs, employee wellness
21 programs, risk management services, loss control services, workers' compensation
22 analysis forecasting, or any other service designed to assist in the efficient
23 administration of a policyholder's insurance program;

24 (4) Life insurers from paying bonuses to policyholders or otherwise abating their
25 premiums in whole or in part out of surplus accumulated from nonparticipating
26 insurance, if such bonus or abatement is fair and equitable to all policyholders and
27 for the best interests of the insurer and its policyholders;

(5) In the case of insurance policies issued on the debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the savings in collection expense or making allowance to policyholders who make premium payments at less frequent intervals than required;

(6) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of any policy year of insurance thereunder, which may be made retroactive only for such policy year;~~{ or }~~

(7) An insurer from waiving, in whole or in part, a policyholder's deductible for food spoilage for an insured risk located in a county declared to be a federal disaster area;

or

(8) Payment of any compensation, fee, or other consideration to an individual not licensed to sell insurance if such individual sells, solicits, or negotiates rental vehicle insurance in accordance with KRS 304.9-507 or for the referral of a consumer to a licensed individual in accordance with KRS 304.9-425.

➔Section 4. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) "At the time of enrollment" means:

(a) At the time of application for an individual, an association that actively markets to individual members, and an employer-organized association that actively markets to individual members; and

(b) During the time of open enrollment or during an insured's initial or special enrollment periods for group health insurance;

(3) "Base premium rate" means, for each class of business as to a rating period, the

lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;

(4) "Basic health benefit plan" means any plan offered to an individual, a small group, or employer-organized association that limits coverage to physician, pharmacy, home health, preventive, emergency, and inpatient and outpatient hospital services in accordance with the requirements of this subtitle. If vision or eye services are offered, these services may be provided by an ophthalmologist or optometrist. Chiropractic benefits may be offered by providers licensed pursuant to KRS Chapter 312;

(5) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);

(6) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);

(7) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or

(c) 42 U.S.C. sec. 300bb;

(8) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;

2. Health insurance coverage;

3. Part A or Part B of Title XVIII of the Social Security Act;

4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;

- 1 5. Chapter 55 of Title 10, United States Code, including medical and dental
2 care for members and certain former members of the uniformed services,
3 and for their dependents; for purposes of Chapter 55 of Title 10, United
4 States Code, "uniformed services" means the Armed Forces and the
5 Commissioned Corps of the National Oceanic and Atmospheric
6 Administration and of the Public Health Service;
- 7 6. A medical care program of the Indian Health Service or of a tribal
8 organization;
- 9 7. A state health benefits risk pool;
- 10 8. A health plan offered under Chapter 89 of Title 5, United States Code,
11 such as the Federal Employees Health Benefit Program;
- 12 9. A public health plan as established or maintained by a state, the United
13 States government, a foreign country, or any political subdivision of a
14 state, the United States government, or a foreign country that provides
15 health coverage to individuals who are enrolled in the plan;
- 16 10. A health benefit plan under section 5(e) of the Peace Corps Act (22
17 U.S.C. sec. 2504(e)); or
- 18 11. Title XXI of the Social Security Act, such as the State Children's Health
19 Insurance Program.
- 20 (b) This term does not include coverage consisting solely of coverage of excepted
21 benefits as defined in subsection (14) of this section;
- 22 (9) "Dependent" means any individual who is or may become eligible for coverage
23 under the terms of an individual or group health benefit plan because of a
24 relationship to a participant;
- 25 (10) "Employee benefit plan" means an employee welfare benefit plan or an employee
26 pension benefit plan or a plan which is both an employee welfare benefit plan and
27 an employee pension benefit plan as defined by ERISA;

1 (11) "Eligible individual" means an individual:

2 (a) For whom, as of the date on which the individual seeks coverage, the
3 aggregate of the periods of creditable coverage is eighteen (18) or more
4 months and whose most recent prior creditable coverage was under a group
5 health plan, governmental plan, or church plan. A period of creditable
6 coverage under this paragraph shall not be counted if, after that period, there
7 was a sixty-three (63) day period of time, excluding any waiting or affiliation
8 period, during all of which the individual was not covered under any
9 creditable coverage;

10 (b) Who is not eligible for coverage under a group health plan, Part A or Part B of
11 Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a
12 state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et
13 seq.) and does not have other health insurance coverage;

14 (c) With respect to whom the most recent coverage within the coverage period
15 described in paragraph (a) of this subsection was not terminated based on a
16 factor described in KRS 304.17A-240(2)(a), (b), and (c);

17 (d) If the individual had been offered the option of continuation coverage under a
18 COBRA continuation provision or under KRS 304.18-110, who elected the
19 coverage; and

20 (e) Who, if the individual elected the continuation coverage, has exhausted the
21 continuation coverage under the provision or program;

22 (12) "Employer-organized association" means any of the following:

23 (a) Any entity that was qualified by the commissioner as an eligible association
24 prior to April 10, 1998, and that has actively marketed a health insurance
25 program to its members since September 8, 1996, and which is not insurer-
26 controlled;

27 (b) Any entity organized under KRS 247.240 to 247.370 that has actively

1 marketed health insurance to its members and that is not insurer-controlled; or
 2 (c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-
 3 91(d)(3), whose members consist principally of employers, and for which the
 4 entity's health insurance decisions are made by a board or committee, the
 5 majority of which are representatives of employer members of the entity who
 6 obtain group health insurance coverage through the entity or through a trust or
 7 other mechanism established by the entity, and whose health insurance
 8 decisions are reflected in written minutes or other written documentation.

9 Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, and
 10 except as otherwise provided by the definition of "large group" contained in
 11 subsection (30) of this section, an~~no~~ employer-organized association shall not be
 12 treated as an association, small group, or large group under this subtitle, provided
 13 that an employer-organized association that is a bona fide association as defined
 14 in subsection (5) of this section shall be treated as a large group under this
 15 subtitle;

16 (13) "Employer-organized association health insurance plan" means any health insurance
 17 plan, policy, or contract issued to an employer-organized association, or to a trust
 18 established by one (1) or more employer-organized associations, or providing
 19 coverage solely for the employees, retired employees, directors and their spouses
 20 and dependents of the members of one (1) or more employer-organized
 21 associations;

22 (14) "Excepted benefits" means benefits under one (1) or more, or any combination
 23 thereof, of the following:

24 (a) Coverage only for accident, including accidental death and dismemberment,
 25 or disability income insurance, or any combination thereof;

26 (b) Coverage issued as a supplement to liability insurance;

27 (c) Liability insurance, including general liability insurance and automobile

- 1 liability insurance;
- 2 (d) Workers' compensation or similar insurance;
- 3 (e) Automobile medical payment insurance;
- 4 (f) Credit-only insurance;
- 5 (g) Coverage for on-site medical clinics;
- 6 (h) Other similar insurance coverage, specified in administrative regulations,
- 7 under which benefits for medical care are secondary or incidental to other
- 8 insurance benefits;
- 9 (i) Limited scope dental or vision benefits;
- 10 (j) Benefits for long-term care, nursing home care, home health care, community-
- 11 based care, or any combination thereof;
- 12 (k) Such other similar, limited benefits as are specified in administrative
- 13 regulations;
- 14 (l) Coverage only for a specified disease or illness;
- 15 (m) Hospital indemnity or other fixed indemnity insurance;
- 16 (n) Benefits offered as Medicare supplemental health insurance, as defined under
- 17 section 1882(g)(1) of the Social Security Act;
- 18 (o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10,
- 19 United States Code;
- 20 (p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is
- 21 supplemental to coverage under a group health plan; and
- 22 (q) Health flexible spending arrangements;
- 23 (15) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec.
- 24 1002(32);
- 25 (16) "Group health plan" means a plan, including a self-insured plan, of or contributed to
- 26 by an employer, including a self-employed person, or employee organization, to
- 27 provide health care directly or otherwise to the employees, former employees, the

1 employer, or others associated or formerly associated with the employer in a
2 business relationship, or their families;

3 (17) "Guaranteed acceptance program participating insurer" means an insurer that is
4 required to or has agreed to offer health benefit plans in the individual market to
5 guaranteed acceptance program qualified individuals under KRS 304.17A-400 to
6 304.17A-480;

7 (18) "Guaranteed acceptance program plan" means a health benefit plan in the individual
8 market issued by an insurer that provides health benefits to a guaranteed acceptance
9 program qualified individual and is eligible for assessment and refunds under the
10 guaranteed acceptance program under KRS 304.17A-400 to 304.17A-480;

11 (19) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance
12 Program established and operated under KRS 304.17A-400 to 304.17A-480;

13 (20) "Guaranteed acceptance program qualified individual" means an individual who, on
14 or before December 31, 2000:

15 (a) Is not an eligible individual;

16 (b) Is not eligible for or covered by other health benefit plan coverage or who is a
17 spouse or a dependent of an individual who:

18 1. Waived coverage under KRS 304.17A-210(2); or

19 2. Did not elect family coverage that was available through the association
20 or group market;

21 (c) Within the previous three (3) years has been diagnosed with or treated for a
22 high-cost condition or has had benefits paid under a health benefit plan for a
23 high-cost condition, or is a high risk individual as defined by the underwriting
24 criteria applied by an insurer under the alternative underwriting mechanism
25 established in KRS 304.17A-430(3);

26 (d) Has been a resident of Kentucky for at least twelve (12) months immediately
27 preceding the effective date of the policy; and

1 (e) Has not had his or her most recent coverage under any health benefit plan
2 terminated or nonrenewed because of any of the following:

- 3 1. The individual failed to pay premiums or contributions in accordance
4 with the terms of the plan or the insurer had not received timely
5 premium payments;
- 6 2. The individual performed an act or practice that constitutes fraud or
7 made an intentional misrepresentation of material fact under the terms of
8 the coverage; or
- 9 3. The individual engaged in intentional and abusive noncompliance with
10 health benefit plan provisions;

11 (21) "Guaranteed acceptance plan supporting insurer" means either an insurer, on or
12 before December 31, 2000, that is not a guaranteed acceptance plan participating
13 insurer or is a stop loss carrier, on or before December 31, 2000, provided that a
14 guaranteed acceptance plan supporting insurer shall not include an employer-
15 sponsored self-insured health benefit plan exempted by ERISA;

16 (22) "Health benefit plan" means any hospital or medical expense policy or certificate;
17 nonprofit hospital, medical-surgical, and health service corporation contract or
18 certificate; provider sponsored integrated health delivery network; a self-insured
19 plan or a plan provided by a multiple employer welfare arrangement, to the extent
20 permitted by ERISA; health maintenance organization contract; or any health
21 benefit plan that affects the rights of a Kentucky insured and bears a reasonable
22 relation to Kentucky, whether delivered or issued for delivery in Kentucky, and
23 does not include policies covering only accident, credit, dental, disability income,
24 fixed indemnity medical expense reimbursement policy, long-term care, Medicare
25 supplement, specified disease, vision care, coverage issued as a supplement to
26 liability insurance, insurance arising out of a workers' compensation or similar law,
27 automobile medical-payment insurance, insurance under which benefits are payable

1 with or without regard to fault and that is statutorily required to be contained in any
2 liability insurance policy or equivalent self-insurance, short-term coverage, student
3 health insurance offered by a Kentucky-licensed insurer under written contract with
4 a university or college whose students it proposes to insure, medical expense
5 reimbursement policies specifically designed to fill gaps in primary coverage,
6 coinsurance, or deductibles and provided under a separate policy, certificate, or
7 contract, or coverage supplemental to the coverage provided under Chapter 55 of
8 Title 10, United States Code, or limited health service benefit plans;

9 (23) "Health care provider" or "provider" means any facility or service required to be
10 licensed pursuant to KRS Chapter 216B, pharmacist or home medical equipment
11 and services provider as defined pursuant to KRS Chapter 315, and any of the
12 following independent practicing practitioners:

- 13 (a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;
- 14 (b) Chiropractors licensed under KRS Chapter 312;
- 15 (c) Dentists licensed under KRS Chapter 313;
- 16 (d) Optometrists licensed under KRS Chapter 320;
- 17 (e) Physician assistants regulated under KRS Chapter 311;
- 18 (f) Advanced practice registered nurses licensed under KRS Chapter 314; and
- 19 (g) Other health care practitioners as determined by the department by
20 administrative regulations promulgated under KRS Chapter 13A;

21 (24) (a) "High-cost condition," pursuant to the Kentucky Guaranteed Acceptance
22 Program, means a covered condition in an individual policy as listed in
23 paragraph (c) of this subsection or as added by the commissioner in
24 accordance with KRS 304.17A-280, but only to the extent that the condition
25 exceeds the numerical score or rating established pursuant to uniform
26 underwriting standards prescribed by the commissioner under paragraph (b) of
27 this subsection that account for the severity of the condition and the cost

1 associated with treating that condition.

2 (b) The commissioner by administrative regulation shall establish uniform
3 underwriting standards and a score or rating above which a condition is
4 considered to be high-cost by using:

5 1. Codes in the most recent version of the "International Classification of
6 Diseases" that correspond to the medical conditions in paragraph (c) of
7 this subsection and the costs for administering treatment for the
8 conditions represented by those codes; and

9 2. The most recent version of the questionnaire incorporated in a national
10 underwriting guide generally accepted in the insurance industry as
11 designated by the commissioner, the scoring scale for which shall be
12 established by the commissioner.

13 (c) The diagnosed medical conditions are: acquired immune deficiency syndrome
14 (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver,
15 coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia,
16 hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes,
17 leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis,
18 muscular dystrophy, myasthenia gravis, myotonia, open heart surgery,
19 Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia,
20 stroke, syringomyelia, and Wilson's disease;

21 (25) "Index rate" means, for each class of business as to a rating period, the arithmetic
22 average of the applicable base premium rate and the corresponding highest premium
23 rate;

24 (26) "Individual market" means the market for the health insurance coverage offered to
25 individuals other than in connection with a group health plan. The individual market
26 includes an association plan that is not employer related, issued to individuals on an
27 individually underwritten basis, other than an employer-organized association or a

1 bona fide association, that has been organized and is maintained in good faith for
 2 purposes other than obtaining insurance for its members and that has a constitution
 3 and bylaws;

4 (27) "Insurer" means any insurance company; health maintenance organization; self-
 5 insurer or multiple employer welfare arrangement not exempt from state regulation
 6 by ERISA; provider-sponsored integrated health delivery network; self-insured
 7 employer-organized association, or nonprofit hospital, medical-surgical, dental, or
 8 health service corporation authorized to transact health insurance business in
 9 Kentucky;

10 (28) "Insurer-controlled" means that the commissioner has found, in an administrative
 11 hearing called specifically for that purpose, that an insurer has or had a substantial
 12 involvement in the organization or day-to-day operation of the entity for the
 13 principal purpose of creating a device, arrangement, or scheme by which the insurer
 14 segments employer groups according to their actual or anticipated health status or
 15 actual or projected health insurance premiums;

16 (29) "Kentucky Access" has the meaning provided in KRS 304.17B-001(17);

17 (30) "Large group" means:

18 (a) An employer with fifty-one (51) or more employees;~~[or]~~

19 (b) An affiliated group with fifty-one (51) or more eligible members; or

20 (c) An employer-organized association that is a bona fide association as
 21 defined in subsection (5) of this section;

22 (31) "Managed care" means systems or techniques generally used by third-party payors
 23 or their agents to affect access to and control payment for health care services and
 24 that integrate the financing and delivery of appropriate health care services to
 25 covered persons by arrangements with participating providers who are selected to
 26 participate on the basis of explicit standards for furnishing a comprehensive set of
 27 health care services and financial incentives for covered persons using the

1 participating providers and procedures provided for in the plan;

2 (32) "Market segment" means the portion of the market covering one (1) of the
3 following:

4 (a) Individual;

5 (b) Small group;

6 (c) Large group; or

7 (d) Association;

8 (33) "Participant" means any employee or former employee of an employer, or any
9 member or former member of an employee organization, who is or may become
10 eligible to receive a benefit of any type from an employee benefit plan which covers
11 employees of the employer or members of the organization, or whose beneficiaries
12 may be eligible to receive any benefit as established in Section 3(7) of ERISA;

13 (34) "Preventive services" means medical services for the early detection of disease that
14 are associated with substantial reduction in morbidity and mortality;

15 (35) "Provider network" means an affiliated group of varied health care providers that is
16 established to provide a continuum of health care services to individuals;

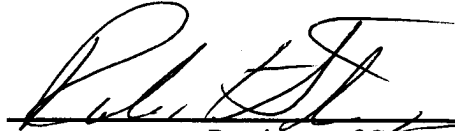
17 (36) "Provider-sponsored integrated health delivery network" means any provider-
18 sponsored integrated health delivery network created and qualified under KRS
19 304.17A-300 and KRS 304.17A-310;

20 (37) "Purchaser" means an individual, organization, employer, association, or the
21 Commonwealth that makes health benefit purchasing decisions on behalf of a group
22 of individuals;

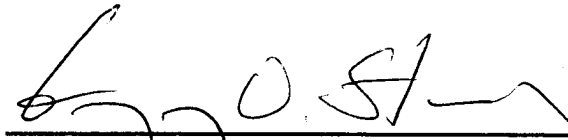
23 (38) "Rating period" means the calendar period for which premium rates are in effect. A
24 rating period shall not be required to be a calendar year;

25 (39) "Restricted provider network" means a health benefit plan that conditions the
26 payment of benefits, in whole or in part, on the use of the providers that have
27 entered into a contractual arrangement with the insurer to provide health care

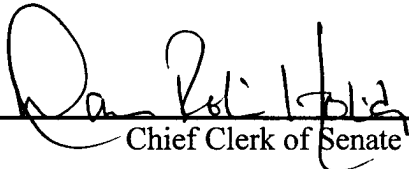
- 1 services to covered individuals;
- 2 (40) "Self-insured plan" means a group health insurance plan in which the sponsoring
3 organization assumes the financial risk of paying for covered services provided to
4 its enrollees;
- 5 (41) "Small employer" means, in connection with a group health plan with respect to a
6 calendar year and a plan year, an employer who employed an average of at least two
7 (2) but not more than fifty (50) employees on business days during the preceding
8 calendar year and who employs at least two (2) employees on the first day of the
9 plan year;
- 10 (42) "Small group" means:
- 11 (a) A small employer with two (2) to fifty (50) employees; or
- 12 (b) An affiliated group or association with two (2) to fifty (50) eligible members;
- 13 (43) "Standard benefit plan" means the plan identified in KRS 304.17A-250; and
- 14 (44) "Telehealth" has the meaning provided in KRS 311.550.



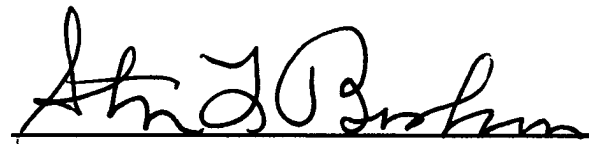
President of Senate



Speaker-House of Representatives

Attest: 

Chief Clerk of Senate

Approved 

Governor

Date 4-4-13